

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9119 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KALUBHAI BECHARBHAI GOHIL

Versus

STATE OF GUJARAT

Appearance:

MR RD DAVE for Petitioner
MS. HARSHA DEVANI, A.G.P. for the respondents.
MR. MUKESH PATEL, Advocate, for the respondent No. 4.

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 27/02/96

ORAL JUDGEMENT

Rule. Learned A.G.P. waives service of rule on behalf of respondents Nos. 1,2, and 3. Mr. Mukesh Patel, Advocate, waives service of rule on behalf of respondent No. 4. At the request of both the sides the matter is taken up for final disposal today. The main grievance which has been voiced by the petitioner through his counsel is that no hearing was given to the petitioner by the respondent authorities before

cancelling his hotel licence under the impugned orders.

The Sub-Divisional Magistrate, Bhavnagar, by his order dated 7.6.1993 cancelled the petitioner's licence for a rest house which was granted for the period from 18.11.1991 to 31.12.1995 on the ground that the petitioner had not shown any lawful occupation of the land and that it was not proper to allow running of a hotel on "gaucher" land. The District Magistrate dismissing the appeal of the petitioner concurred with the order of the Sub-Divisional Magistrate holding that the petitioner was running a hotel on "gaucher" land and had encroached on the land disentitling him to hold a licence for the hotel. Admittedly, the petitioner was not heard before the cancellation of the licence. The impugned orders are, therefore, in violation of the principle of natural justice. The impugned orders are therefore set aside. However, since the licence was granted only till 31.12.1995 no consequential relief can be given to the petitioner. Rule is made absolute accordingly with no order as to costs. Any renewal application that may have been made by the petitioner will be decided by the concerned authorities on its own merits in accordance with law and after hearing the interested parties.

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